IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 9618 of 2004

Keshavrao B. Boraste .. Petitioner

versus

Chandrakant K. Sheware & ors. .. Respondents

...

Mr.V.Z. Kankaria for the petitioner.

Mr.Harshad Epalule for respondent no.5.

CORAM : D.G. KARNIK, J

DATED : 16th February 2006.

P.C.:

1. Heard learned counsel for the petitioner.

2. This Writ Petition is directed against an order dated 20th September 2004 passed under section 140 of the Motor Vehicles Act.

3. Learned counsel for the petitioner submits that two vehicles were involved in the accident and

liability has been fixed only on the owner of one vehicle. He therefore, submits that the petitioner is liable to pay only 50% of the amount. He relies upon the decision of the Supreme Court in K.Nandakumar Vs. M.D. Thanthai Periyar Transport Corporation Ltd. reported in 1996 ACJ 555. In my view, the said decision does not lay down that only 50% of the amount is payable by the owner of each vehicle when two vehicles are involved. In any event, in my view, the apportionment of the compensation based upon a proof of a negligence can be made at the time of final hearing of the petition. The compensation payable u/s.140 is based upon a 'No fault' liability and is required to be paid expeditiously in order that the family of the deceased is able to tie over the crisis arising out of death of the bread winner of the family.

4. For these reasons, petition is rejected summarily.

(D.G. KARNIK, J)